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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In re

CENTURION PROPERTIES III,
LLC,

Debtor.

Case No. 10-04024-FLK 11

Chapter 11

STIPULATED AMENDED AND
RESTATED ORDER
AUTHORIZING FINAL USE OF
CASH COLLATERAL

This matter came before the Court pursuant to the above-captioned Debtor's (the "**Debtor**") Motion for Order Authorizing: (1) Continued Utilization of Cash Collateral, and (2) Continuation of Adequate Protection, filed on December 17, 2010 [Docket No. 130] (the "**Second Cash Collateral Motion**"), and that certain Stipulated Order Authorizing Final Use of Cash Collateral [Docket No. 76] (the "**First Cash Collateral Order**"), entered on September 17, 2010.

This matter came before the Court for hearing on December 29, 2010, at 10:30 a.m. prevailing Pacific Time. Appearances were made by telephone as noted in the record.

1 Through the Second Cash Collateral Motion, the Debtor seeks authority to
2 continue to use cash collateral as defined in Section 363 of the Bankruptcy Code¹
3 and continue to make adequate protection payments to General Electric Capital
4 Corporation (“GECC”) in the amount of \$330,000 per month. As set forth herein,
5 GECC is willing to stipulate to the relief sought in the Second Cash Collateral
6 Motion on the terms contained herein, provided that (a) the Court provides
7 adequate protection of GECC’s interest in its cash collateral, and (b) the Debtor is
8 only permitted to use cash collateral in accordance with the terms of this Order.
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12 Upon review and consideration of the Second Cash Collateral Motion, the
13 Court having conducted an interim hearing on cash collateral in the above-
14 captioned case in accordance with Section 363 of the Bankruptcy Code and Rule
15 4001 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”),
16 upon appropriate notice and after due deliberation and consideration of the
17 evidence presented at such hearing, and sufficient cause appearing therefor,
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19
20 **THE COURT MAKES THE FOLLOWING FINDINGS OF FACT:**

21 1. Petition Date. On July 9, 2010 (the “**Petition Date**”) the Debtor filed
22 its voluntary petition for relief under Chapter 11 of the Bankruptcy Code.
23

24 2. Jurisdiction and Venue. This Court has jurisdiction over the matter
25 pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper in this District pursuant
26 to 28 U.S.C. §§ 1408 and 1409.
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¹ References to Sections and Chapters of the Bankruptcy Code shall refer to Title 11, United States Code *et seq.*

1 3. Core Proceeding. The disposition of the Second Cash Collateral
2 Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

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4 4. Notice. Notice of the Second Cash Collateral Motion and the
5 opportunity for a hearing on this Motion were appropriate and no other or further
6 notice need be given.

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8 5. The Battelle Property. The “**Battelle Property**” consists of five
9 buildings, related improvements and common areas located on the leasehold
10 estates located in Richland, Washington at the Battelle Memorial Institute Campus,
11 all of which are leased back to Battelle Memorial Institute pursuant to five
12 facilities leases (the “**Battelle Leases**”).

13
14 6. GECC’s Loan and Security Interest. On or about November 28, 2006,
15 GECC and the Debtor entered into that certain Loan Agreement (the “**Loan**
16 **Agreement**”, and the loan made pursuant thereto, the “**Loan**”), secured by, among
17 other things, the Deed of Trust, Assignment of Rents and Leases, Security
18 Agreement and Fixture Filing (Leasehold Estates) on the Battelle Property and
19 other collateral (the “**Deed of Trust**” and together with the Loan Agreement and
20 any and all documents related thereto, the “**Loan Documents**”). The Loan
21 matured by its terms on November 30, 2009. As of the Petition Date, the
22 outstanding principal balance of the Loan was \$58,258,354 (plus fees and expenses
23 incurred by GECC prior to the Petition Date chargeable to the Debtor under the
24 Loan Documents). On November 23, 2010, GECC timely filed its Proof of Claim

1 in the above-captioned proceedings in the amount of \$59,190,636.94 plus other
2 amounts set forth therein (the "**Claim**"). GECC asserts that (i) it has a valid,
3 perfected, enforceable, and unavoidable first priority lien upon and security interest
4 in substantially all of the Debtor's assets, including real and personal property and
5 cash collateral, which secure Debtor's prepetition obligations to GECC under the
6 Loan Documents, and (ii) it is entitled to adequate protection in connection with
7 any use by the Debtor of any cash collateral.

10 7. Money Market Account/Lockbox. Pursuant to the Loan Documents,
11 revenues from the Battelle Property were to be paid into a Lockbox, from which a
12 portion of the interest due to GECC under the Loan Documents and expenses
13 related to the Battelle Property are paid (the "**Lockbox**"). Pursuant to the First
14 Cash Collateral Order, the Debtor established a Money Market Account at
15 Washington Trust Bank (the "**Money Market Account**"), all funds which were on
16 deposit in the Lockbox were transferred to the Money Market Account, and all
17 revenues from the Battelle Property collected after entry of the First Cash
18 Collateral Order were to be deposited into the Money Market Account. Pursuant
19 to the First Cash Collateral Order, the Money Market Account is controlled solely
20 by the Debtor and does not require GECC's signature or written approvals for
21 withdrawals therefrom. Withdrawals and disbursements from the Money Market
22 Account are only permitted in accordance with this Order. Also under the First
23 Cash Collateral Order, GECC was granted a first priority perfected security interest

1 in and lien upon the Money Market Account, all Debtors' rights in the funds
2 therein, and any interest earned thereon, to the extent the Debtor has any right to
3 funds in the Money Market Account. In addition, GECC is entitled to inquiry only
4 access to view and review the balance and account activity of the Money Market
5 Account and is entitled to complete, real time, direct access to information related
6 to the Money Market Account, including through online access to the account.
7 However, pursuant to the First Cash Collateral Order GECC does not have the
8 ability to control activity in the Money Market Account. The Debtor, GECC,
9 Deutsche Bank, and Washington Trust Bank, were authorized and empowered to
10 take all actions necessary to implement the relief granted in the First Cash
11 Collateral Order. GECC agreed to provide any reasonable required authorizations
12 requested by Battelle to allow lease payments to be made to the Money Market
13 Account.

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19 8. Revenues and Expenses. The funds currently deposited into the
20 Money Market Account (and formerly, the Lockbox) are paid to the Debtor by
21 Battelle pursuant to the Battelle Leases and consist of: (i) Base Rent, (ii) Service
22 Rate Payments and (iii) Task Order Payments. GECC contends that its security
23 interest attached to all such revenues. The Debtor asserts that payments related to
24 Service Rents and Task Order Payments are made by Battelle pursuant to the
25 underlying lease agreements, specifically definitions concerning Service Rates,
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1 Annual Service Rate Determination, and Task Orders. The Debtor represents as
2 follows:

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4 a. The "**Base Rent**" is the amount charged by the Debtor for
5 Battelle to lease the Property.

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7 b. The "**Service Rate Payments**" (aka "**Service Rents**") are
8 payments designed to cover the operating costs of the facilities which have been
9 negotiated and already approved by Battelle, plus a management fee which Battelle
10 also negotiated and incorporated into the Battelle Leases. For example, in the
11 Battelle Leases the ground rent payable back to Battelle, property taxes, insurance,
12 all utilities, HVAC and the like are included in the Service Rate Payments. Service
13 Rate Payments are based on such estimated operating costs and management fees
14 for the applicable year and paid in equal monthly installments. Battelle reviews
15 and approves the Service Rates annually and Debtor does a year-end
16 reconciliation. Often, the Debtor expends more throughout the year for Service
17 Rate Payments and recovers the shortfall from Battelle after the year end
18 reconciliation. In the interim the Debtor funds the shortfall in service rent
19 payments from the Base Rents. However, upon reconciliation, all operating costs
20 are ultimately paid by Battelle.
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1 c. The “**Task Order Payments**” represent payments for work
2 (such as capital improvements). Pursuant to Battelle Leases, Battelle requests the
3 Debtor obtain bids and supervise construction of numerous, substantial
4 improvements to the Property on a continuous basis. At times, monthly Task
5 Order Payments can exceed \$1,000,000, particularly during the summer
6 construction season. Although it is Battelle that exclusively selects and approves
7 the Task Order work to be performed, the Battelle Leases are structured to shift the
8 administration and disbursement function to the Debtor, rather than directly by
9 Battelle. Task Order requests and payment procedures are governed and controlled
10 by the underlying applicable lease agreement and basic ordering agreement
11 between Battelle and the Debtor. Task Order Payments are paid upon completion
12 or during the applicable project.

17 9. Stipulation and Good Faith. The Debtor and GECC have conducted
18 good faith negotiations relating to the Debtor’s use of GECC’s cash collateral and
19 other matters referenced herein, such negotiations were at arms length, and the
20 proposed terms and conditions as set forth herein are fair and reasonable under the
21 circumstances.
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1 **NOW THEREFORE**, after due deliberation and sufficient cause appearing
2 therefor, it is hereby **ORDERED**:

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4 1. Effect of Order. The First Cash Collateral Order is hereby superseded
5 by this Order as of January 1, 2011. This Order shall serve as the Court's order
6 with respect to cash collateral and shall be deemed its final order upon expiration
7 of the time period required by Rule 4001(b)(2) of the Bankruptcy Rules.

8
9 2. Use of Cash Collateral. Subject to this Order, the Debtor is authorized
10 to use cash collateral in accordance with the Approved Budget (as defined below)
11 or as otherwise ordered by the Court.

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13 3. Budgets.

14 a. Approved Budget. The Debtor shall be authorized to continue
15 the use of cash collateral through December 31, 2010 in accordance with the First
16 Cash Collateral Order. Commencing on January 1, 2011 and continuing through
17 March 31, 2011, the Debtor shall use cash collateral in accordance with the
18 requirements of the underlying leases with Battelle and consistent with the Budgets
19 submitted concurrent herewith by separate pleading (Docket No. 140) (The
20 "Approved Budget") subject to Permitted Variance.

21
22 b. Subsequent Approved Budgets. The Debtor will prepare its
23 budget for the three (3) month period (a "**Budget Period**") commencing April 1,
24 2011. This shall be prepared in accordance with past practice, including a lease
25 supplement to be executed with Battelle adjusting Service Rents for the annual
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1 Service Rent Period. This budget shall be submitted to GECC for approval on or
2 before March 18, 2011, and a hearing for the approval thereof shall be take place
3 on or before March 31, 2011.
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5 c. Permitted Variance. The Debtor shall be permitted to exceed
6 the aggregate amount in the Budget for expenditures related to Service Rate
7 Payments by an amount not to cumulatively exceed ten percent (10%) over the
8 amount of Service Rate Payments actually collected from Battelle since the
9 beginning of the applicable Service Rate Budget Period ("**Permitted Variance**").
10 In the event the Service Rate expenditures are to exceed the budget by more than
11 ten percent (10%), the Debtor shall seek permission of GECC for payment of such
12 additional amount. In the event consent to payment is withheld as to the variance,
13 the Debtor may seek Court permission for payment.
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17 d. Task Order Payments. Projected revenues and expenditures
18 related to Task Order Payments, as well as they are known at the time, shall be set
19 forth in the proposed budget for each Budget Period. The Debtor shall be
20 permitted to pay Task Order Payments, provided that all such expenditures are paid
21 solely from funds received on account of Task Order Payments previously
22 collected from Battelle. Task Order Payments may only be paid from funds from
23 any source other than Task Order Payments if (i) included in the Approved Budget,
24 or (ii) ordered by the Court.
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1 e. Administrative Claims and United States Trustee Fees. This
2 Order shall be without prejudice to the right of the Debtor to apply to the Court on
3 appropriate notice and motion to seek approval and payment of administrative
4 expenses, professional fees, which shall be estimated Budgets. United States
5 Trustees fees may be paid as a budget approved expense in the ordinary course
6 with cash collateral. The payment of such fees pursuant to the Budget or as
7 ordered by the Court may be paid with funds in the Money Market Account.
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10 4. Money Market Account. All revenues from the Battelle Property will
11 be deposited into the Money Market Account. The Money Market Account will be
12 controlled solely by the Debtor and not require GECC's signature or written
13 approvals for withdrawals therefrom. Disbursements from the Money Market
14 Account shall be made solely by the Debtor and solely in accordance with this
15 Order. To the extent the Debtor has any right to funds in the Money Market
16 Account, GECC is hereby granted a first priority perfected security interest in and
17 lien upon the Money Market Account, all Debtor's rights in the funds therein, and
18 any interest earned thereon. GECC shall be entitled to inquiry only access to view
19 and review the balance and account activity of the Money Market Account and
20 shall have complete, real time, direct access to information related to the Money
21 Market Account, including through online access to the account. GECC will not,
22 however, have the ability to control activity in the Money Market Account. The
23 Debtor, GECC, Deutsche Bank, and Washington Trust Bank, and all other parties,
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1 are authorized and empowered to take all actions necessary to implement the relief
2 granted in this Order. GECC agrees to provide any reasonable required
3 authorizations requested by Battelle to allow lease payments to be made to the
4 Money Market Account.
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6 5. Interest Payments.
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8 a. Background. Pursuant to the Loan Documents, GECC is
9 entitled to the monthly payment of interest based on the outstanding principal
10 amount of the Loan on the first day of each month. Under the Loan Documents,
11 the outstanding principal balance of the Loan bears interest at a rate of interest
12 equal to six and thirty-six hundredths percent (6.36%) per annum (the “**Contract**
13 **Rate**”), plus a default rate of interest equal to an additional five percent (5%) per
14 annum (the “**Default Rate**”). GECC may also seek fees and costs related to the
15 Loan under the Loan Documents. The Debtor reserves the right to challenge the
16 reasonableness of such fees and costs.
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20 b. Adequate Protection Payment. To provide adequate protection
21 of GECC’s interest in the property securing its prepetition secured claims against
22 the Debtor resulting from the use of cash collateral, it is hereby ordered that on or
23 before the 1st day of each month, the Debtor shall pay GECC \$330,000.00. Such
24 payment shall be in satisfaction of the interest accruing on the Loan for that month
25 at the Contract Rate. All payments received by GECC, including any amount paid
26 on a monthly basis in excess of the interest accruing at the Contract Rate, shall be
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1 applied to the Loan according to the terms of the Loan Documents and GECC is
2 hereby authorized and granted relief from stay to do so. In addition thereto, and as
3 further adequate protection of GECC's interest, interest shall accrue on the
4 outstanding principal balance of the Loan at the Default Rate in accordance with
5 the Loan Documents ("**Default Interest**"). The Debtor reserves the right to
6 contest GECC's right to Default Interest to the extent GECC is determined not to
7 be oversecured and further reserves the right, if any, to modify the terms and the
8 present loan, including Default Interest, through a Plan of Reorganization
9 consistent with the confirmation standards in the Bankruptcy Code.
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13 6. Replacement Liens. To provide further protection to GECC for any
14 decrease in the value of its interest in any property securing its prepetition secured
15 claims against the Debtor resulting from the use of cash collateral by the Debtor,
16 and to secure any such decrease, GECC is hereby granted a first priority perfected
17 security interest in and lien upon all property constituting "Mortgaged Property" as
18 defined in the Deed of Trust, whether now owned and existing or hereafter
19 acquired, created or arising, and all products and proceeds thereof (including,
20 without limitation, all claims of the Debtor against third parties for loss, damage or
21 diminution of the value of such property), including all accessions thereto,
22 substitution and replacement thereof, wherever located (the "**Replacement**
23 **Collateral**" and the lien described above, the "**Adequate Protection Lien**").
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1 7. Administrative Claim. To provide further protection to GECC for any
2 decrease in the value of its interest in any property securing its prepetition secured
3 claims against the Debtor resulting from the use of cash collateral by the Debtor,
4 GECC shall be entitled to any and all rights afforded by Section 507(b) of the
5 Bankruptcy Code.
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8 8. Waiver of Surcharge. Except as otherwise authorized by an order of
9 this Court, neither the Debtor nor any party who receives notice pursuant to
10 Bankruptcy Rule 4001(d) shall be entitled to directly or indirectly charge any of
11 the Replacement Collateral or GECC's collateral under the Loan Documents
12 pursuant to Sections 105 or 506(c) of the Bankruptcy Code, direct the exercise of
13 remedies, or seek (whether by order of this Court or otherwise) to marshal or
14 otherwise control the disposition of the Replacement Collateral or GECC's
15 collateral under the Loan Documents.
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18 9. Further Adequate Protection. If the protections afforded herein are, in
19 retrospect, inadequate or otherwise fail to adequately protect GECC's interest,
20 GECC may be entitled to a "super-priority" administrative claim under Section
21 507(b) of the Bankruptcy Code to the full extent of any deficiency, but subject to
22 Debtor's reservation of rights herein and shall be entitled to seek an order allowing
23 such a claim.
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1 10. Automatic Perfection. The Adequate Protection Lien and all other
2 liens and security interests granted hereunder shall be deemed valid and
3 enforceable as of the Petition Date with no further action required by GECC. The
4 granting of the Adequate Protection Lien is in addition to the liens and security
5 interests of GECC in its existing collateral. The Adequate Protection Lien is
6 governed by all the terms of the Loan Documents covering the collateral of GECC,
7 except to the extent (if at all) directly contrary to the terms this Order or the
8 Bankruptcy Code. The Adequate Protection Lien and other liens granted
9 hereunder shall be deemed attached and perfected automatically and
10 retrospectively to the Petition Date by entry of this Order. GECC shall not be
11 required to record mortgages or file financing statements in order to perfect the
12 Adequate Protection Lien, other liens granted hereunder or its security interest in
13 the Replacement Collateral.
14

15 11. Reports and Access. The Debtor shall provide: (i) all reasonable
16 financial reports for the each calendar month to GECC on or before the fifteenth
17 day of any following month during which this Order (or a replacement cash
18 collateral order) is in effect, commencing on January 15, 2011, and (ii) such other
19 information relating to the Battelle Property and its leasing as GECC may
20 reasonably request from time to time (including, without limitation, information on
21 the status of rental, operating expenses, property maintenance, accounts paid,
22 payable and receivable, capital improvements and repair costs, on reasonable
23 information relating to the Battelle Property and its leasing as GECC may
24 reasonably request from time to time (including, without limitation, information on
25 the status of rental, operating expenses, property maintenance, accounts paid,
26 payable and receivable, capital improvements and repair costs, on reasonable
27 information relating to the Battelle Property and its leasing as GECC may
28 reasonably request from time to time (including, without limitation, information on

1 notice). Notwithstanding the foregoing, GECC agrees it will not directly, or
2 through its agents, contact Battelle directly unless it has first obtained Debtor's
3 reasonable consent, which may require Debtor to be included in any
4 communication.
5

6 12. GECC's Liens. In consideration for the use of cash collateral, subject
7 to Section 16 hereof, pursuant to this Order, GECC's first priority lien upon and
8 security interest in all property owned, leased or in which and to the extent the
9 Debtor has "rights" therein, and products, rents and proceeds thereof, are hereby
10 confirmed. The parties reserve any and all rights with respect to whether GECC
11 holds a security interest in the Service Rate Payments or Task Order Payments.
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13 13. Restriction on Additional Financing. So long as the Debtor is
14 authorized to use cash collateral pursuant to this Order, the Debtor shall not seek
15 any order under 11 U.S.C. § 364(d)(1) with respect to any property of the estate
16 which is subject to a security interest of GECC except for: (i) a loan whose
17 proceeds would be used to pay the Loan in full, and (ii) as GECC may agree in
18 writing, or (iii) for purchase money trade debt (e.g. equipment leasing and liens on
19 supplies).
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1 14. Right to Credit Bid. GECC shall have the right to “credit bid” the
2 allowed amount of its secured claim in any sale, lease or other disposition of assets
3 that secure the Debtor’s obligations under the Loan Documents, including, without
4 limitation, sales occurring pursuant to Sections 363 or 1123(a)(5)(D) of the
5 Bankruptcy Code or included as part of any plan subject to confirmation under
6 Section 1129(b)(2)(A)(ii) of the Bankruptcy Code.
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9 15. Debtor’s Reservation of Rights. The Debtor reserves the right to
10 request additional use of cash collateral, and GECC shall have the ability to object
11 to, contest, and challenge any such additional use of cash collateral. Before
12 seeking an order for additional use of cash collateral, except in case of emergency
13 or GECC agrees otherwise in writing, the Debtor agrees to provide GECC at least
14 five (5) business days’ prior notice particularly identifying the expenses for which
15 the Debtor will seek Court approval for further use of cash collateral.
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18 16. Immediate Effect. Notwithstanding the possible applicability of Rules
19 6004(h), 7062, and 9014 of the Bankruptcy Rules, or otherwise, the terms and
20 conditions of this Order shall be immediately effective and enforceable upon its
21 entry as to GECC and the Debtor. After the notice requirements of Bankruptcy
22 Rule 4001(d) are satisfied, this Order shall be binding on all parties in interest.
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1 17. Continued Compliance with the Loan Documents. Except to the
2 extent of those covenants which are already the subject of pending litigation, the
3 Debtor shall honor the covenants in the Loan Documents, including, without
4 limitation, relating to insurance coverage on the existing collateral and insurance
5 coverage shall continue in full force and effect as to the existing collateral and any
6 Replacement Collateral.
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9 18. Operating Reports. The Debtor shall timely file all United States
10 Trustee Operating Reports and simultaneously provide copies to GECC.
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12 19. Events of Default. Any of the following events shall constitute an
13 “Event of Default”:

14 a. Failure of the Debtor to comply with any term or requirement
15 of this Order or any action taken by the Debtor in contravention thereof
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17 b. Entry of an order or judgment (i) terminating the authority of
18 the Debtor to use all or any portion of the existing collateral or Replacement
19 Collateral; (ii) dismissing this bankruptcy case or converting this case to a Chapter
20 7 case; (iii) appointing a Trustee; or (iv) granting any party in interest other than
21 GECC relief from stay with respect to any property securing the Debtor’s
22 obligations to GECC;
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1 c. The Debtor's expenditures exceed any Approved Budget by
2 more than the Permitted Variance without the written approval of GECC or
3 approval from the Court;
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5 d. The commencement by the Debtor against GECC of any
6 lawsuit, adversary proceeding, contested matter or other proceeding, which asserts
7 any cause of action against GECC; or
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9 e. This Order being vacated, amended (other than by agreement
10 of the parties with the approval of the Court), reversed or stayed.
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12 For avoidance of doubt, the effect of the Debtor violating the
13 provisions of this Section 19, above shall be that GECC's consent to use cash
14 collateral is immediately terminated and the Debtor may seek approval of the
15 Court to use cash collateral for any purpose, and GECC shall be entitled to oppose
16 such relief on any and all basis.
17

18 20. Notice of Certain Events of Default. Upon the occurrence of an Event
19 of Default of the type described in Sections 19.a, upon the expiration of five (5)
20 business days following the date of the receipt by the Debtor or its counsel of a
21 written notice of default from GECC or its counsel, and the failure of the Debtor to
22 cure such default within a ten (10) business day period (except in the case of a
23 payment default, which must be cured within two (2) business days) after a hearing
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1 in connection with an Event of Default may be heard on an expedited basis by
2 either the Debtor or GECC.

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4 21. Termination of Authority to Use Cash Collateral. The authority of the
5 Debtor to use cash collateral will automatically terminate, without further action by
6 GECC, the Debtor or the Court: (a) immediately upon the occurrence of an Event
7 of Default of the type described in Sections 19.b, 19.c, 19.d or 19.e; or (b)
8 following notice and opportunity to cure upon the occurrence of an Event of
9 Default of the type described in Section 19.a.

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12 22. Binding on Successors and Assigns; Modification. This Order shall
13 be binding upon GECC and the Debtor, and their respective successors and assigns
14 (except any trustee hereafter appointed or elected as a representative for the estate
15 of the Debtor in the above-captioned Chapter 11 proceeding or a subsequent
16 proceeding under Chapter 7 of the Bankruptcy Code) and shall inure to the benefit
17 of GECC and the Debtor (except with respect to any trustee hereafter appointed or
18 elected as a representative for the estate) and their respective successors and
19 assigns. Except as expressly set forth in this Order, no third parties are intended to
20 be or shall be deemed to be third party beneficiaries of the provisions of this Order.
21 In the event that all or any of the provisions of this Order are hereafter modified,
22 vacated or stayed (a "**Modification**"), the parties shall be entitled to the benefit of
23 this Order until the Modification becomes effective. Nothing herein shall waive,
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1 release, modify, impair or restrict either Debtor's nor GECC's rights, remedies,
2 and privileges under the Loan Documents.
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5 Presented by:

6 CRUMB & MUNDING, P.S.

7 /s/ John D. Munding

8 JOHN D. MUNDING, WSBA #21734

9 Attorneys for Debtor-in-Possession

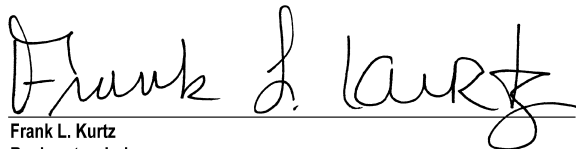
Approved as to form,
Notice of Presentation Waived.

LATHAM & WATKINS LLP

/s/ Peter M. Gilhuly

PETER M. GILHULY, *PRO HAC VICE*
Attorneys for General Electric Capital
Corporation

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Frank L. Kurtz
Bankruptcy Judge

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